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REMARKS

With entry of this amendment, claims 1, 3-10, 12-20, 22-29, 31-37, 62-64, 66-69, 71, and 74-95 are pending in the above-identified application. Claims 30, 65, 70, 72, and 73 have been canceled without prejudice. Claims 1, 19, 20, 34, 35, 62, 64, 69, 74, and 90 have been amended and claims 91-95 have been added as set forth in detail below. Claims 7-10, 26-29, 36, and 79-82 were previously withdrawn by the Examiner as drawn to non-elected inventions. No new matter has been added by these amendments.

Claim Rejections under 35 U.S.C. § 112, First Paragraph

Claims 65 and 70 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. To expedite prosecution of the present application, Applicants have canceled claims 65 and 70, thereby obviating the instant rejection.

Claim Rejection under 35 U.S.C. § 112, Second Paragraph

Claim 30 stands rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner believes that claim 30 contradicts claim 20, on which it depends, because claim 30 requires that the loop portion is formed of a layer that is secured to another layer, while claim 20 requires that the loop portion is formed of a layer that is secured to itself.

Applicants note that claim 30 has been canceled in view of the amendment to claim 20, which substantially incorporates the subject matter of claim 30. Claim 20 now recites "wherein the flap of flexible material comprises a layer that is secured to itself and another layer." Therefore, the instant rejection is obviated with respect to claim 30. However,

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Applicants traverse the rejection with respect to claim 20 as currently amended, as set forth below.

It is well-established that the determination of whether a claim is definite depends on whether those skilled in the art would understand the scope of the claim when the claim is read in light of the specification. In the present case, it is respectfully submitted that the skilled artisan, reading claims 20 and 30 in light of the specification, would understand that, in certain embodiments of the present invention, a layer of flexible material, folded back to form a loop and secured to itself, could also be secured to another layer of the flexible material. As an example, Applicants respectfully direct the Examiner's attention to Figure 25A, which shows an embodiment having three layers of flexible material (232, 235, and 237), in which the flap 233 comprises the second layer 232 secured to itself at portion 234. The specification states that "[t]he secured portion 234 may also be secured or bonded to the adjacent first layer of flexible material 235 and third layer of flexible material 237" (Specification at page 42, lines 6-8.)

Therefore, for the reasons set forth above, Applicants believe claim 20 as currently amended to be definite.

Claim Rejections under 35 U.S.C. § 102

Claims 19 and 34 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Houser *et al.* (U.S. Patent No. 6,149,681). Claims 62 and 63 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Layne *et al.* (U.S. Patent No. 6,558,414).

While not acquiescing to the Examiner's rejections, but to expedite prosecution of the instant application, Applicants have amended claims 19, 34, and 62 as follows. Claims 19 and 34 have been amended to recite that the flexible material portion comprises "a plurality of layers ... wherein the flap means is secured to itself and another layer." Claim 62 has been amended to recite that the flexible material portion comprises "a plurality of layers ... wherein the flap of flexible material comprises a layer that is secured to itself and another layer." Support for these amendments is found in the specification at, e.g., page 42, lines 6-8, and Figure 25A.

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Applicants note that neither Houser *et al.* nor Layne disclose an endovascular graft having a flexible material portion with a plurality of layers, wherein a flap of the flexible material is folded back to form a loop portion, and wherein the flap comprises a layer that is secured to itself and another layer. Therefore, Applicants believe claims 19, 34, and 62 to be novel over Houser *et al.* and Layne.

Because claim 63 depends from claim 62, claim 63 is also novel over the cited references. However, Applicants traverse the instant rejection of claim 63, as set forth below.

It is well-settled that, in order for a reference to anticipate a claim under 35 U.S.C. § 102(b), the reference must expressly or inherently disclose each and every limitation recited in the claim. Therefore, the reference must disclose the "identical invention ... in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In the present case, claim 63 recites an embodiment of the endovascular graft or section thereof in which "the serpentine expandable member comprises a first set of apices that are directed in a first direction and a second set of apices that are directed in a direction substantially opposite of the first direction, wherein at least some of the apices in the first set further comprise connector elements that extend in a direction substantially parallel to a longitudinal axis of the generally tubular flexible material portion and beyond an edge of the generally tubular flexible material portion" (emphasis added)

The Examiner alleges that Layne anticipates claim 63, referring to Figure 4 and stating that "when the flaps are folded down, the apices of the first set will have a portion, providing as connector elements, that extends in a direction substantially parallel to the longitudinal axis of the generally tubular flexible material portion and beyond an edge of the generally tubular flexible material portion." Applicants respectfully disagree.

The Examiner has not shown where Layne describes or suggests that at least some of the apices in the first set comprise connector elements that extend beyond an edge of the generally tubular flexible material portion. Figure 4 of Layne merely shows a plurality of ring

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stents 30 placed on the outer surface of the graft. None of the apices appear to have any connector members than extend beyond an edge of the generally tubular flexible material portion. Therefore, at least for the reasons above, Applicants believe claim 63, as previously presented, to be novel over Layne.

In view of the above remarks and amendments, Applicants respectfully request the Examiner to reconsider and withdraw the rejections under 35 U.S.C. § 102(b) of claims 19 and 34 as anticipated by Houser *et al.*, and of claims 62 and 63 as anticipated by Layne.

Claim Rejections under 35 USC §103(a)

Claims 1, 3-6, 12-18, 20, 22-25, 31-33, 35, 37, 64-67, 69-72, 74-78, and 83-90 stand rejected under 35 U.S.C. § 103(a) as follows:

claims 1, 3-5, 12-18, 20, 22-24, 31-33, 35, 69-72, 74-77 and 83-90 as allegedly unpatentable over Houser *et al.* in view of McDermott *et al.*;

claims 6, 25, 37 and 78 as allegedly unpatentable over Houser *et al.* and McDermott *et al.* as applied to claims 5, 24, 35 and 77 above, and further in view of Edwin *et al.*; and

claims 64-67 as allegedly unpatentable over Layne in view of McDermott *et al.*

While not acquiescing to the Examiner's rejections or reasons for rejection, but in order to expedite prosecution of the instant application, Applicants have amended claims independent claims 1, 20, 35, 69, 74, and 90 as follows. Claims 1, 20, 69, and 74 have been amended to recite "wherein the flap of flexible material comprises a layer that is secured to itself and another layer." Method claim 35 has been amended to recite the step "securing the flap of the flexible material portion to itself and another layer." Further, claim 90 has been amended to recite "wherein the flap means is secured to itself and another layer." Support for these

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amendments are found in the specification at, *e.g.*, page 42, lines 6-8, and Figure 25A.

Applicants note that independent claim 62, from which rejected claims 64-67 depend, have been similarly amended, as set forth above in Applicants' response to the Examiner's rejections under 35 U.S.C. § 102(b).

The cited art does not teach or suggest an endovascular graft having a flexible material portion with a plurality of layers, wherein at least one flap of the flexible material is folded back to form a loop portion and wherein the flap of flexible material comprises a layer that is secured to itself and another layer. Further, the amendments set forth above substantially incorporate the subject matter of claim 30, which the Examiner has indicated as allowable. Therefore, Applicants believe claims 1, 20, 35, 62, 69, 74 and 90, and all pending claims depending therefrom, to be nonobvious over the cited art.

In view of the above remarks and amendments, Applicants respectfully request the Examiner to reconsider and withdraw the rejections of claims 1, 3-6, 12-18, 20, 22-25, 31-33, 35, 37, 64-67, 69-72, 74-78, and 83-90 under 35 U.S.C. § 103(a).

Allowable Claims

The Examiner has indicated that claims 68 and 73 would be allowable if rewritten in independent form. New independent claims 91 and 93 substantially incorporate the subject matter of claims 68 and 73, respectively. Therefore, claims 91 and 93 should be allowable.

The Examiner has indicated that claim 30 would be allowable if rewritten in independent form and to overcome the rejection under 35 U.S.C. § 112, second paragraph. For the reasons set forth above in response to the Examiner's rejection under 35 U.S.C. § 112, second paragraph, Applicants believe claim 30 as previously presented in Applicant's response filed December 15, 2003 (and now presented in independent form in claim 20) to be definite. However, to more fully claim novel aspects of the present invention, Applicants have added claim 95, which recites an embodiment of the endovascular graft or section thereof comprising "a flexible material portion comprising a plurality of layers and a connector member secured to

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the flexible material portion with a joint that includes at least one flap of the flexible material folded back and secured to form a loop portion about the connector member; wherein the flap of flexible material comprises a layer that is secured to another layer" (emphasis added).

Applicants note the new claim 95 incorporates the subject matter of the original claims 20 and 30. Because claim 95 conforms to the Examiner's suggestion for rewriting claim 30, claim 95 should be allowable.

In addition to claims 91, 93, and 95, as set forth above and which recite subject matter indicated as allowable by the Examiner, new claims 92 and 94 have been added to more fully claim novel aspects of the present invention. Claim 92, which depends from claim 91, recites that the serpentine expandable member comprises a self-expanding stent. Claim 94, which depends from claim 93, recites that the inflatable channel comprises a plurality of circumferential rings. Because claims 91 and 93 are allowable, claims 92 and 94 should also be allowable.

Other Claim Amendments

In view of the amendment, as previously set forth, to independent claim 62 (which now recites "a generally tubular flexible material comprising a plurality of layers"), claim 64 has been amended to delete the phrase "wherein the generally tubular flexible material portion comprises a plurality of layers."

Claims 1, 20, 62, 69, and 74 have been amended for conciseness by deleting "and secured" from the phrase "at least one flap of the flexible material folded back and secured to form a loop portion ...," which Applicants believe to be redundant in view of the phrase "wherein the flap of flexible material comprises a layer that is secured to itself and another layer" (emphasis added). Applicants believe that these amendments do not change the meaning of claims 1, 20, 62, 69, and 74 as would be understood by the skilled artisan reading these claims in light of the specification.

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Claims 1, 19, 20, 34, 62, 69, 74, and 90 have also been amended for clarification of language and scope as follows. Claims 1, 20, and 74 have been amended to recite "wherein ~~the looped portion is formed of~~ flap of flexible material comprises a layer that is secured to itself and another layer." Claims 62 and 69 have been similarly amended as set forth above in the Amendments to the Claims. Also, claims 19, 34, and 90 have been amended to recite "at least one flap means of the flexible material that forms a loop portion ~~that,~~ wherein the flap means is secured to itself and another layer." Applicants believe these amendments, as shown by underline and strikethrough above, are not made for purposes of patentability and, further, do not affect the patentability of the present claims, which Applicants believe to be allowable for at least the reasons set forth above in response to the Examiner's rejections under 35 U.S.C. §§ 102 and 103.

Withdrawn Claims

Applicants note that claims 1, 20, and 74, as currently amended, are generic to withdrawn dependent claims 7-10, 26-29, and 79-81. Because claims 1, 20, and 74 should be allowable for the reasons set forth above, Applicants respectfully request that withdrawn claims 7-10, 26-29, and 79-82 be rejoined and examined.

Amendments to Figure 25A

Figure 25A has been amended to reflect that the outside surface of layer 232 of flexible material corresponds to reference number 238. This amendment finds support in the specification at page 41, line 20 to page 42, line 1.

Attached hereto are informal versions of the replacement sheet and annotated sheet showing changes for Figure 25A. The formal replacement sheet and annotated sheet showing changes will be submitted when the issue fee is paid.

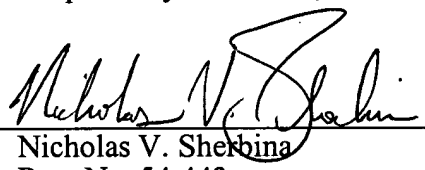
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CONCLUSION

Applicants respectfully request reexamination and reconsideration of the claims in this matter. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 206-467-9600.

Respectfully submitted,

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FIG. 25A

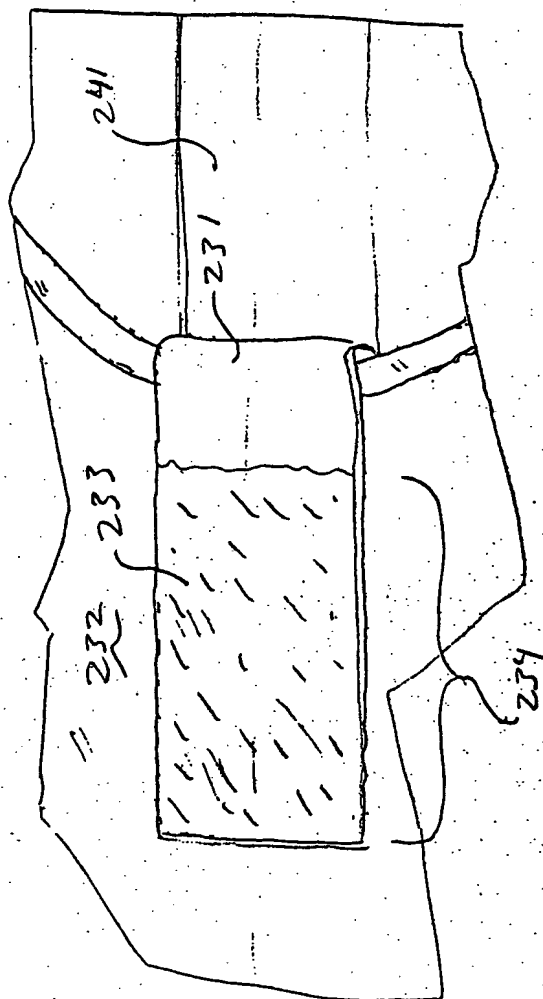
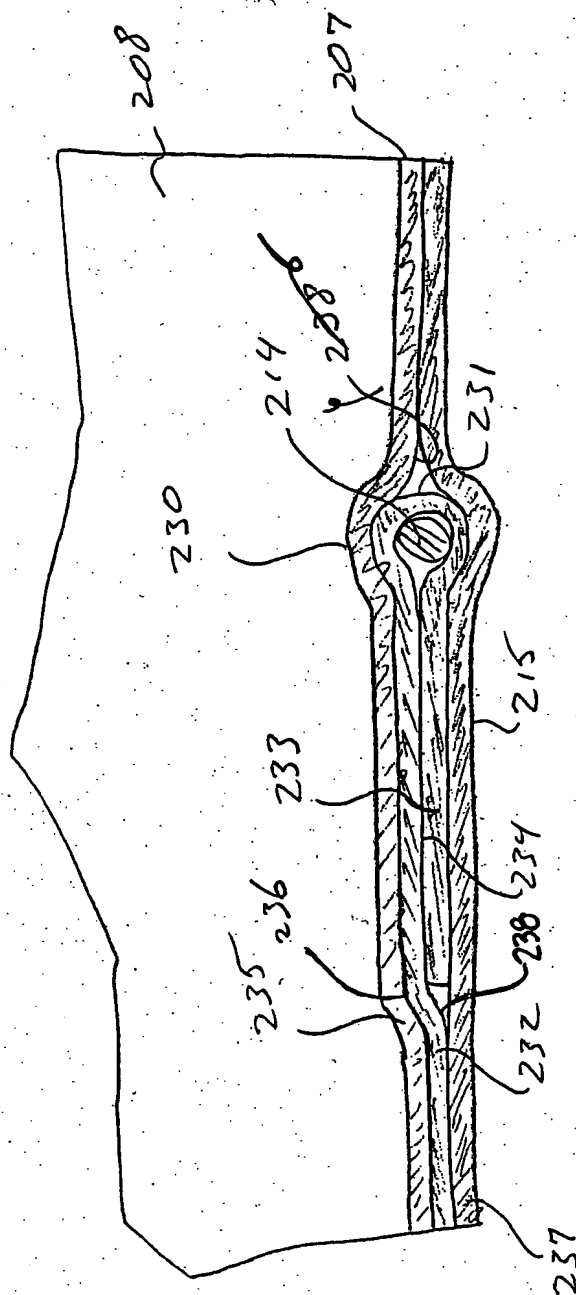


FIG. 25B